

STATE OF COLORADO

John W. Hickenlooper, Governor
Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

NOTICE OF PUBLIC RULE-MAKING HEARING BEFORE THE COLORADO BOARD OF HEALTH

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on December 18, 2013 at 10 a.m. in the Sabin-Cleere Conference Room of the Colorado Department of Public Health and Environment, Bldg. A, First Floor, 4300 Cherry Creek Drive, South, Denver, CO 80246, to consider the promulgation of a reduced application fee for medical marijuana registration cards. A copy of the meeting agenda will be on the Board's web site: <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251635552089> at least 7 days prior to the meeting.

The purpose of this hearing is to receive public comments on the proposed reduction of the medical marijuana application fee. The proposed rules are being developed by the Center for Health and Environmental Information and Statistics Division of the Colorado Department of Public Health and Environment pursuant to Section 25-1.5-106, C.R.S.

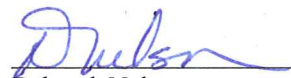
Copies of the proposed rules may be obtained after November 10, 2013, by emailing medical.marijuana@state.co.us or contacting the Colorado Department of Public Health and Environment, Center for Health and Environmental Information and Statistics Division HSV-8608, 4300 Cherry Creek Drive S., Denver, CO 80246. The proposed amendments will also be available on the Board's Web site at <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251622332257> under "Notices of Upcoming Public Rulemaking Hearings and Draft Proposed Rules."

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments, or by making oral comments at the hearing. At the discretion of the Chair, oral testimony at the hearing may be limited to five minutes or less depending on the number of persons wishing to comment.

PURSUANT TO 6 CCR 1014-8, §3.02.1, WRITTEN TESTIMONY MUST BE SUBMITTED TO THE Board no later than five (5) calendar days prior to the rulemaking hearing. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Jamie L. Thornton, Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: Jamie.thornton@state.co.us

The proposed revisions to be considered at the hearing, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the above address by any person at least five working days prior to the hearing.

Dated this 30th day of October 2013.


Deborah Nelson
Board of Health Administrator

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY FOR**
Amendments to Medical Use of Marijuana Regulations, 5 CCR 1006-2

November 6, 2013, Fee Reduction Proposal

Basis and Purpose.

Regulation 7 of the Medical Use of Marijuana Regulations provides the mechanism for determining the fees to pay for the administrative costs of the program. Paragraph A requires the Department to annually evaluate the fee charged to applicants for the Medical Marijuana Registry and to propose modifications to the Board, as appropriate.

Specific Statutory Authority. These rules are promulgated pursuant to the following:

Colorado Constitution, Article XVIII, Section 14, paragraph 9 directs the Board to enact rules for the administration of the program. Colorado Revised Statute §25-1.5-106 (16) authorizes the Board to set fees.

Major Factual and Policy Issues Encountered.

The Registry evaluated the revenue and expenses of the program over the past year and projected the expected needs of the program over the coming year. It also took into account the existence of the cash reserve fund and the recommendations of the Office of the State Auditor.

Alternative Rules Considered and Why Rejected.

There are no alternatives. The data supports a change to the fee delineated in rule.

REGULATORY ANALYSIS
for
Proposed Amendments to Medical Use of Marijuana
5 CCR 1006-2

November 6, 2013

- 1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Persons applying to be added to the Medical Marijuana Registry and who have demonstrated they qualify under one or more of the eight diseases or conditions specified in amendment 20.

- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

The proposed rule will reduce the annual fee required of applicants to join the Medical Marijuana Registry for a five-year period, or until the unallocated cash fund surplus is within the statutory limit of 16.5%.

- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

Fees are adjusted annually to balance revenue collected with the estimated direct and indirect costs of operating the Registry.

- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

Failure to adjust the fees will result in a continuing fund imbalance leading to an increase of the cash reserve fund above required limits.

- 5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

There are no alternatives. The data supports an adjustment to the fee delineated in rule.

- 6. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

Reference above response.

7. **To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.**

The Department examined revenue and direct and indirect costs over the preceding years. Based on that data the Department projected anticipated revenue and expenses for the coming year. Other data examined included the status of the programs cash reserve fund. It also took into consideration the recommendations contained in a recent report by the Office of the State Auditor and feedback provided by stakeholders via an online survey.

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Health and Environmental Information and Statistics Division**

3 **MEDICAL USE OF MARIJUANA**

4 **5 CCR 1006-2**

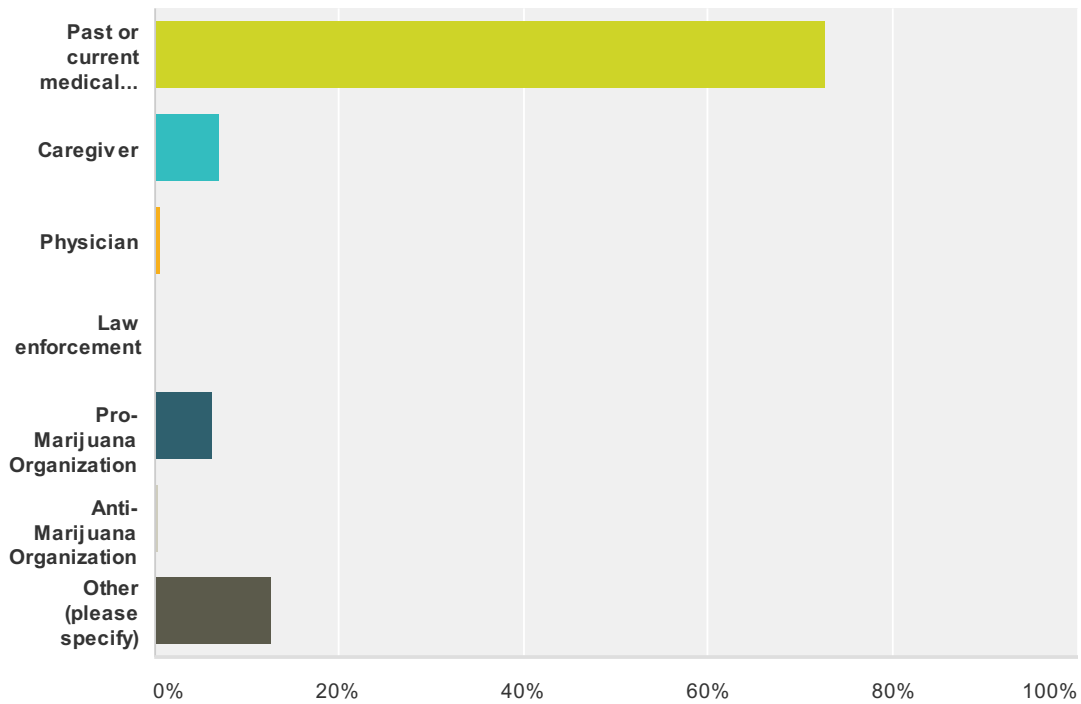
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6 **Regulation 7: Determination of fees to pay for administrative costs of the medical use of**
7 **marijuana program**

- 8 A. Application fee. Effective February 1, 2014 through January 30, 2019, the department shall
9 collect fifteen dollars from each applicant at the time of application to pay for the direct
10 and indirect costs to administer the medical use of marijuana program, unless the
11 applicant meets the criteria set forth in section (b) of this Regulation (7) establishing
12 indigence. Effective February 1, 2019, the department shall collect twenty-two dollars
13 from each applicant at the time of application to pay for the direct and indirect costs to
14 administer the medical use of marijuana program, unless the applicant meets the criteria
15 set forth in section (b) of this Regulation (7) establishing indigence. Such fee shall not be
16 refundable to the applicant if the application is denied or revoked or if the patient no
17 longer has a debilitating medical condition. The amount of the fee shall be evaluated
18 annually by the department to ensure compliance with the applicable statutes and the
19 fees meet the actual Medical Marijuana Registry expenses. The department shall
20 propose modifications to the board, as appropriate. If the patient provides updated
21 information at any time during the effective period of the registry identification card, the
22 department shall not charge a fee to modify the registry information concerning the
23 patient.
24

Q1 Which of the following best describes you?

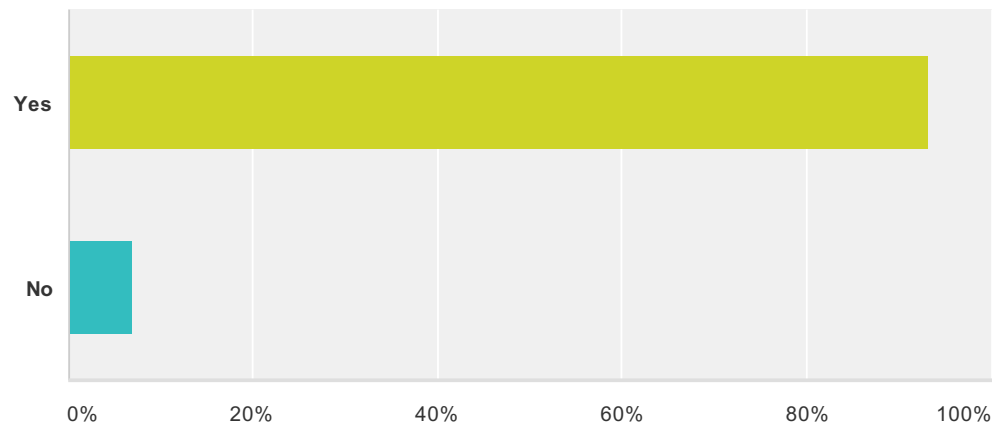
Answered: 383 Skipped: 0



Answer Choices	Responses	
Past or current medical marijuana patient	72.58%	278
Caregiver	7.05%	27
Physician	0.78%	3
Law enforcement	0%	0
Pro-Marijuana Organization	6.27%	24
Anti-Marijuana Organization	0.52%	2
Other (please specify)	12.79%	49
Total		383

Q2 Are you supportive of a reasonable fee decrease to reduce the Medical Marijuana Registry cash fund surplus?

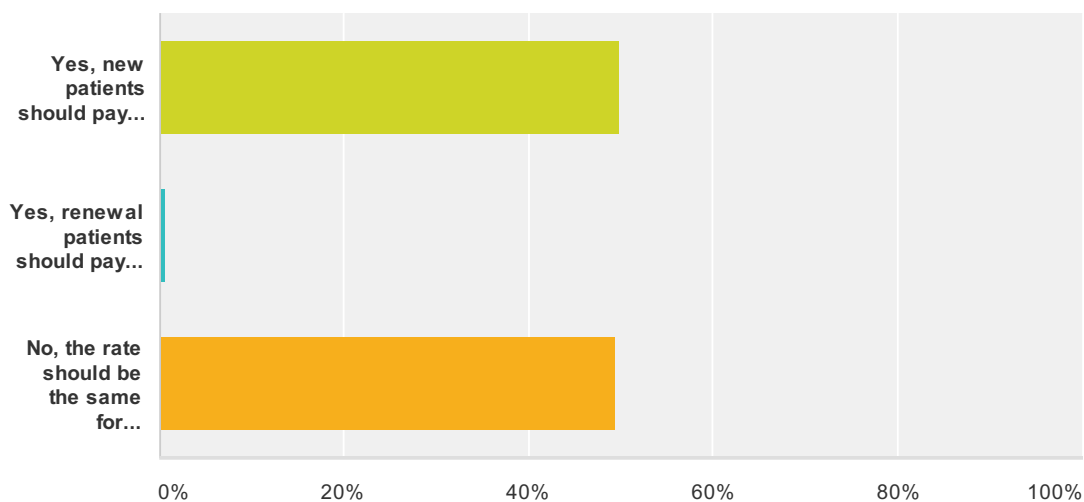
Answered: 381 Skipped: 2



Answer Choices	Responses	
Yes	93.18%	355
No	6.82%	26
Total		381

Q3 The current cost for all applicants is \$35.00 per application. The Office of the State Auditor has recommended a reduction based upon a determination that a fee of \$22.00 would cover Public Health's costs for implementing the program. Public Health is assessing its costs and different approaches to covering those costs. Currently, all patients pay the same fee when they apply for a red card and again to renew their cards annually. Would you support renewal patients paying less than new patients ?

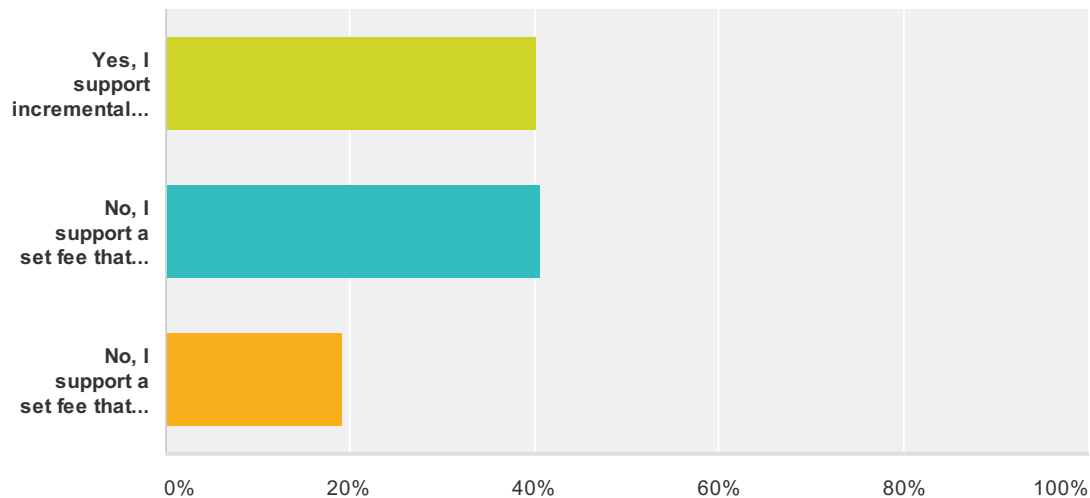
Answered: 381 Skipped: 2



Answer Choices	Responses	
Yes, new patients should pay more	49.87%	190
Yes, renewal patients should pay more	0.79%	3
No, the rate should be the same for everyone	49.34%	188
Total		381

Q4 To avoid dramatic fluctuation in fees (in the event that costs increase, and the current fund balance is depleted) incremental increases can be put in place. While this does not eliminate the possibility of a fee increase, it can minimize the need for an increase. Do you support a fee schedule that allows for incremental increases in fees?

Answered: 375 Skipped: 8



Answer Choices	Responses	
Yes, I support incremental increases to reduce the possibility of dramatic fluctuation in rates.	40.27%	151
No, I support a set fee that is time limited so I know when fees will increase.	40.53%	152
No, I support a set fee that does not address future fee increases to meet Public Health costs.	19.20%	72
Total		375

Q5 What else would you like the Board of Health to know or consider regarding a possible fee adjustment?

Answered: 97 Skipped: 286